

JOHN M. NEUKOM (SBN 275887)
 DEBEVOISE & PLIMPTON, LLP
 650 California Street
 San Francisco, CA 94108
 Telephone: (415) 738-5700
 Facsimile: (415) 644-5628
 jneukom@debevoise.com

JAMES Y. PAK (SBN 304563)
 SKADDEN, ARPS,
 SLATE, MEAGHER & FLOM LLP
 525 University Avenue
 Palo Alto, California 94301-1908
 Telephone: (650) 470-4500
 Facsimile: (650) 470-4570
 john.neukom@skadden.com
 james.pak@skadden.com

DOUGLAS R. NEMEC (*pro hac vice*)
 LESLIE A. DEMERS (*pro hac vice*)
 ANTHONY P. BIONDO (*pro hac vice*)
 SKADDEN, ARPS,
 SLATE, MEAGHER & FLOM LLP
 One Manhattan West
 New York, New York 10001
 Telephone: (212) 735-3000
 Facsimile: (212) 735-2000
 douglas.nemec@skadden.com
 leslie.demers@skadden.com
 anthony.biondo@skadden.com

Attorneys for Plaintiff,
 Fortinet, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FORTINET, INC.,

Plaintiff,

vs.

FORESCOUT TECHNOLOGIES, INC.

Defendant.

Case No. 3:20-cv-03343-EMC

**JOINT CASE MANAGEMENT
 STATEMENT**

Date: March 28, 2023

Time: 2:30 p.m.

Judge: The Honorable Edward M. Chen

1 Plaintiff, Fortinet, Inc. (“Fortinet”) and Defendant Forescout Technologies, Inc.
 2 (“Forescout”) respectfully submit this JOINT CASE MANAGEMENT STATEMENT pursuant to
 3 Civil Local Rule 16-10(d).

4 As noted in § 3 below, the parties continue to explore potential settlement. In view of this,
 5 the parties jointly request that the March 28, 2023 status conference be continued for approximately
 6 two months.

7 **1. Pending Motions**

8 There are currently no motions pending before the Court.

9 **2. Discovery**

10 The parties are in the midst of fact discovery. The parties have exchanged written discovery
 11 and documents. The parties have exchanged correspondence on various discovery issues and have
 12 attempted to resolve their disputes and avoid the need for motion practice.

13 **3. Settlement and ADR**

14 The parties’ December 7, 2022, Settlement Conference before Chief Magistrate Judge Joseph
 15 C. Spero was unsuccessful. The parties are scheduled for a further Settlement Conference before
 16 Chief Magistrate Judge Spero on June 28, 2023. (*See* Dkt. 186). The parties have agreed to continue
 17 informal settlement discussions and also discussed the possibility of private mediation.

18 **4. Scheduling**

19 The case currently has no schedule.

20 **5. Parallel Actions**

21 As previously reported, on May 14, 2021, Forescout filed four IPRs with the Patent Trial and
 22 Appeal Board (PTAB), challenging the validity of the three patents asserted in the original Complaint
 23 in this action, and filed two additional IPRs on August 11, 2021 challenging the validity of the two
 24 patents asserted in the Amended Complaint in this action.¹

25 From these six petitions, two IPRs were instituted and have since completed. On November
 26 15, 2022, the PTAB issued a final written decision in IPR2021-00914 invalidating all of the asserted

27 ¹ IPR2021-00912 (9,369,299 patent) (not instituted), IPR2021-00913 (9,369,299 patent) (not instituted),
 28 IPR2021-00914 (8,458,314 patent) (final written decision), IPR2021-00915 (9,948,662 patent) (not instituted), IPR2021-
 01328 (9,503,421 patent) (not instituted) and IPR2021-01329 (9,894,034 patent) (final written decision).

claims of U.S. Pat. No. 8,458,314. On January 25, 2023, the PTAB issued a final written decision in IPR2021-01329 invalidating Claims 1, 2, 15, and 16 of U.S. Pat. No. 9,894,034. Claims 4, 9, and 23 of the '034 Patent remain asserted and were not held invalid.

DATED: March 21, 2023

Respectfully Submitted:
FORTINET, INC

By: /s/ John Neukom
John Neukom
DEBEVOISE & PLIMPTON, LLP
Attorneys for Plaintiff Fortinet, Inc.

DATED: March 21, 2023

Respectfully Submitted:
FORESCOUT TECHNOLOGIES INC.

By: /s/ James L. Davis, Jr.
James L. Davis, Jr.
ROPES & GRAY LLP
Attorneys for Defendant Forescout Technologies, Inc.

ATTESTATION

I, John Neukom, am the ECF user whose identification and password are being used to file the parties' Joint Case Management Statement. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that all signatories hereto concur in this filing.

/s/ John Neukom